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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,805	08/29/2001	Daniel P. Stachowicz	58880/278	4584
23838	7590	09/30/2005	EXAMINER	
KENYON & KENYON 1500 K STREET NW SUITE 700 WASHINGTON, DC 20005			WEINSTEIN, STEVEN L	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/940,805

Applicant(s)

STACHOWICZ ET AL.

Examiner

Steven L. Weinstein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shannon ('238), as further evidenced by Janik (EP '132), in view of Craig (GB '224), Schultz et al ('809), Ekdahl ('111), Lacey ('262), Loucony ('533), Setecka ('458), and Hueg ('719), further in view of Ooms (EP '006), Berrod (FR '674), Parrish et al ('523), Weschsler ('496), Delorimiere ('917), Moore ('654), Knight ('165), Niggemeyer ('584), and applicant's admission of the prior art.

In regard to claim 1, Shannon discloses a decorative tip for insertion into a bag or a coupler having a hollow shaft having a non- decorative opening for receiving filling and a tip that could be used as a decorative tip extending from and integral with the hollow shaft the decorative opening being capable of extruding filling and wherein the coupler is capable of being attached to a second decorative tip capable of extruding filling in a second decorative shape. That the coupler of Shannon is capable of being called a decorative tip and capable of extruding filling in a decorative shape is evidenced by Craig, Schultz, Ekdahl, Lacey, Loucony, Setecka and Hueg, all of whom teach nozzle or extruder openings that are round and produce cylindrical material used as decorations. Claim 1 differs from Shannon in the recitation that the decorative tip is non-circular and produces a non-circular shape. Shannon teaches providing a decorative tip that is non-circular so that it could be for immediate use when associated

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with a bag, but does not disclose whether it is attachable or not to another decorative tip. Shannon also discloses a coupler for a bag that has an opening that is capable of decorating but is circular but wherein the coupler is attachable to other tips. To modify the first embodiment of Shannon and provide the non-circular tip with a coupling means so that one could still use the device immediately as taught by Shannon, but also have the capability of employing differently shaped openings as also taught by Shannon would have been obvious in view of Shannon and the art taken as a whole that further teaches that decorator tips allows one to immediately start decorating without additional manipulations, whereas providing attachment means to a conduit or channel for use in a bag provides one with the ability to impart various decorative shapes and not be left with only one choice. Note that the structural element of Shannon to be associated with the bag, whether it is a noncircular element without fastening means or a circular element with fastening means are both conduits. Shannon and the art taken as a whole teaches if one desires to provide a choice in decorative design, one should provide the interior element/conduit with fastening means. Similarly, to modify the second embodiment and provide the element that has fastening means with a non-circular opening if one wanted the opening to be used to provide an immediate non-cylindrical shape would have been obvious as an obvious matter of design and because the art taken as a whole teaches one to provide a non-circular opening if one desires to have the device for immediate use. Note that applicants are not the first to change the shape of an extruded product by positioning one decorative die opening over another decorative die opening as evidenced by Ekdahl (page 2, col. 1 para. 4). Note, too, that claim 1 does not really

recite any attachable structure or means associated with the coupler itself. Claim 1 is broad enough to read on the coupler being attachable (i.e. capable of attaching) to the tip by adhesive or a piece of tape. In any case, the art taken as a whole are replete with examples of threads and nuts. In regard to the dependent claims and the assembly claims, as noted in previous Office actions, it was well established in the art taken as a whole, including Shannon, to pre-fill bag and provide a preassembled bag with coupler, and the use of plastic or fabric was also conventional. In regard to the shape of the opening, the art taken as a whole teaches that dentate and star-shaped openings, were, of course, notoriously old in the art. In regard to the method claims it would have been obvious to provide a shaped opening, coupler with a nozzle tip if one wanted to provide a variety of shapes for the reasons given above. Finally, it is not clear that the phrase "non-circular" would necessarily include an opening that has a dentate design around the perimeter of the opening. When viewing the opening head-on, it would still appear that the opening is circular as in a circular array of teeth-like projections. What orientation is one using to recite a non-circular shape? Note, too, that the product shaped from such an opening could be termed a corrugated, cylindrical shape.

The remainder of the references cited on the PTO892 form are cited as pertinent art.

All of applicant's remarks filed 6/13/05 have been fully and carefully considered and are either found to be moot in view of the new rejection or have been previously addressed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L. Weinstein whose telephone number is 571-272-1410. The examiner can normally be reached on Monday-Friday from 7:00AM to 2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Steve Weinstein*  
**STEVE WEINSTEIN**  
**PRIMARY EXAMINER** 1761